

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
EUGENE AND DAYMEL SHKLAR	)	
FOUNDATION,	)	
	)	
Plaintiff,	)	
v.	)	C.A. No. 04-CV-11529-JLT
	)	
IAN SIMMONS,	)	
	)	
Defendant.	)	
_____	)	

**JOINT MOTION TO EXTEND TIME  
FOR COMPLETION OF DISCOVERY BY 90 DAYS**

Plaintiff Eugene and Daymel Shklar Foundation (the “Foundation”) and defendant Ian Simmons (“Simmons”), hereby jointly move to extend the time for completing all discovery in the above-captioned matter by 90 days, with a status conference to be scheduled at the Court’s convenience in August. As set forth in greater detail below, the parties have worked diligently to comply with this Court’s December 9, 2004 Order regarding discovery, but despite these efforts do not believe they will be able to comply with the current April 29, 2005 deadline for the completion of discovery.

In support of this motion, the Foundation and Simmons jointly state the following:

1. Pursuant to the Court’s Order dated December 9, 2004, the deadline for completion of all discovery in this matter is April 29, 2005.
2. The parties do not believe that, despite best efforts, they will be able to comply with this deadline for a variety of reasons, which are set forth below.
3. William Gaynor, who represented the Foundation in connection with the real estate transaction that is at issue in this lawsuit, has been working in Thailand on relief efforts

related to the tsunamis that struck the area recently. While in Thailand, Mr. Gaynor has only sporadic access to e-mail and virtually no ability to communicate with the Foundation or counsel by telephone.

4. When not working in Thailand, Mr. Gaynor is a resident of Hawaii.

5. Given Mr. Gaynor's central role in communicating with Simmons and representing the Foundation in all aspects of the real estate transaction that is at the heart of the dispute in this matter, Mr. Gaynor is a key repository of relevant documents and information in this case. Although the Foundation has produced approximately 1,000 pages of documents relevant to this case, it cannot ensure that it has completely fulfilled its obligations under Fed. R. Civ. P. 26(a) and the Court's November 3, 2004 Discovery Order until Mr. Gaynor has had the opportunity to review all of his files, which are kept both in hard copy and electronic format.

6. In addition to these issues, extension of the period of time for completion of discovery is appropriate in light of the schedules of counsel for both parties. David Plotkin, counsel of record for Simmons, will be unavailable for most of the month of March due to his wedding and honeymoon. In addition, William Worth, Simmons' other counsel of record, has a family vacation planned in March. Thus, in the event that Mr. Gaynor is able to complete his review of documents within the next week or two, the parties could not commence depositions until April. Finally, Paul Abbott, counsel for the Foundation, will be unavailable from mid-May through early June due to his wedding and honeymoon.

7. Neither party has previously moved for an extension of the discovery period in this case, nor will either party be prejudiced by the allowance of this motion. As such, allowance of this motion is in the interests of justice.

WHEREFORE, the Foundation and Simmons jointly request that the Court allow this  
Joint Motion To Extend Time For Completion Of Discovery By 90 Days.

EUGENE AND DAYMEL SHKLAR  
FOUNDATION,

IAN SIMMONS,

By its attorneys,

By his attorneys,

/s/ Paul D. Abbott

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